

**ORDINANCE NO. 08-53**

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW TWO EXISTING ONE-FAMILY RESIDENCES ON THREE LOTS, FIRST RESIDENCE (PARCEL ONE: LOTS 16 & 17) HAVING A FRONTAGE OF 73.92 FEET, WHERE AT LEAST 75 FEET ARE REQUIRED, A SIDE SETBACK OF 6.5 FEET, WHERE 7.5 FEET ARE REQUIRED, AN ACCESSORY BUILDING ENCROACHING INTO A 6-FOOT EASEMENT WITH A REAR SETBACK OF 5 FEET, WHERE 7.5 FEET ARE REQUIRED, A ROOFED-TERRACE WITH A DISTANCE SEPARATION FROM THE MAIN HOUSE OF 6.5 FEET, WHERE AT LEAST 20 FEET ARE REQUIRED, A FRONT SETBACK OF 14 FEET, WHERE AT LEAST 20 FEET ARE REQUIRED, AND TO ALLOW A SECOND RESIDENCE (PARCEL TWO: LOT 18) HAVING A FRONTAGE OF 46.08 FEET, WHERE AT LEAST 75 FEET ARE REQUIRED, AND A TOTAL AREA OF 6,439 SQUARE FEET, WHERE AT LEAST 7,500 SQUARE FEET ARE REQUIRED, CONTRA TO HIALEAH CODE §§ 98-348(a), 98-499, 98-500, 98-501, AND 98-502. **PROPERTY LOCATED AT 675 EAST 29 STREET AND 2900 EAST 7 AVENUE, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Planning and Zoning Board at its meeting of April 23, 2008 recommended approval of this ordinance; and

**WHEREAS**, pursuant to Hialeah, Fla., Ordinance 2086 (April 9, 1968) a variance permit was granted to allow two residences on Property zoned R-1 (One-Family District); and

**WHEREAS**, the petitioner proffers to remove all other non-conforming structures, to which the City accepts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The below-described property is hereby granted a variance permit to allow a one-family residence on a lot with frontage of 73.92 feet, where at least 75 feet are required, a side setback of 6.5 feet, where 7.5 feet are required, an accessory building encroaching into a 6-foot easement with a rear setback of 5 feet, where 7.5 feet are required, a roofed-terrace with a distance separation from the main house of 6.5 feet, where at least 20 feet are required, a front setback of 14 feet, where at least 20 feet are required, and to allow a one-family residence with a frontage of 46.08 feet, where at least 75 feet are required, on a lot with a total area of 6,439 square feet, where at least 7,500 square feet are required, contra to Hialeah Code §§ 98-348(a), 98-499, 98-500, 98-501 and 98-502, which provide in pertinent part: “*Size of lots...*All lots in R-1 one family districts...shall have at least 7,500 square feet in area”, “Such lots parcels or lots shall have an average width of at least 75 feet”, “In the R-1 one-family district, there shall be a front yard depth not less than 20 feet in distance from the front line.”, “In the R-1 one-family district, there shall be side yards, the width of each to be not less than...five feet one inch or more than 7 ½ feet in width.”, and “In the R-1 one-family district, every principal residential building shall provide a rear yard of a minimum depth of 20 feet to a rear lot line or front of an accessory building, and every accessory building shall provide a rear yard with a minimum depth of 7 ½ feet.”. Property located at 675 East 29 Street and 2900 East 7 Avenue, Hialeah, Miami-Dade County, Florida, zoned R-1 (One-Family District) and legally described as follows:

**Parcel 1:**

LOTS 16 AND 17, BLOCK 50-B, AMENDED PLAT OF THE AMENDED PLAT OF THIRTEENTH ADDITION TO HIALEAH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 34, PAGE 26, OF THE

PUBLIC RECORDS OF MIAMI-DADE COUNTY,  
FLORIDA.

**Parcel 2:**

LOT 18, BLOCK 50-B, AMENDED PLAT OF THE  
AMENDED PLAT OF THIRTEENTH ADDITION TO  
HIALEAH, ACCORDING TO THE PLAT THEREOF, AS  
RECORDED IN PLAT BOOK 34, PAGE 26, OF THE  
PUBLIC RECORDS OF MIAMI-DADE COUNTY,  
FLORIDA.

**Section 2: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to  
the extent of such conflict.

**Section 3: Penalties.**

Every person violating any provision of the Code or any ordinance, rule or  
regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not  
to exceed \$500.00 within the discretion of the court or administrative tribunal having  
jurisdiction. Each act of violation and each day upon which any such violation shall  
occur shall constitute a separate offense. In addition to the penalty prescribed above, the  
city may pursue other remedies such as abatement of nuisance, injunctive relief,  
administrative adjudication and revocation of licenses or permits.

**Section 4: Severability Clause.**

If any phrase, clause, sentence, paragraph or section of this ordinance shall be  
declared invalid or unconstitutional by the judgment or decree of a court of competent  
jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining  
phrases, clauses, sentences, paragraphs or sections of this ordinance.

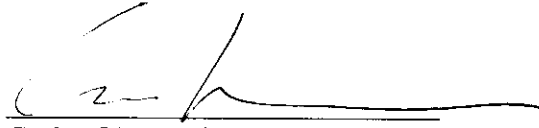
**Section 5: Effective Date.**

This ordinance shall become effective when passed by the City Council of the  
City of Hialeah, Florida, upon signature of the Mayor of the City of Hialeah or at the next

regularly scheduled City Council meeting if the Mayor's signature is withheld or if the city council overrides the Mayor's veto.

PASSED and ADOPTED this 10th day of June, 2008.

THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
Carlos Hernandez  
Council Vice President

Attest:

Approved on this \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Rafael E. Granado, City Clerk

**MAYOR'S SIGNATURE WITHHELD**  
\_\_\_\_\_  
Mayor Julio Robaina

Approved as to form and legal sufficiency:

  
William M. Grodnick, City Attorney

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Ordinance was adopted by a 6-0-1 vote with Councilmembers Caragol, Casals-Muñoz, Gonzalez, Garcia-Martinez, Hernandez, and Yedra voting "Yes" and Councilmember Bovo absent.

Ordinance was passed and adopted by the Hialeah City Council on June 10, 2008 and became effective June 24, 2008 without Mayor's signature.



CFN 2008R0507899  
OR Bk 26440 Pgs 1947 - 1948; (2pgs)  
RECORDED 06/19/2008 15:53:24  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

**Prepared by and return to:**  
City of Hialeah  
Planning Division  
501 Palm Avenue, Second Floor  
Hialeah, FL 33010

**DECLARATION OF RESTRICTIVE COVENANTS  
(Individual)**

(I) (WE), Roberto Rodriguez and Pilar Rodriguez

Being the owner(s) of lands described herein:

Lots 16, 17, 18 and the South ½ of that portion of the 12-foot alley lying North and adjacent thereto, closed per Ordinance 94-07 (1-25-94), in Block 50B of Amended Plat of the Amended Plat of Thirteenth Addition to Hialeah, according to the plat thereof, as recorded in Plat Book 34, at Page 26, of the Public Records of Miami-Dade County, Florida.

The street property address is 675 East 29 Street and 2900 East 7 Avenue, Hialeah, Florida

The folio number is #04-3108-001-4820

make the following Declaration of Restrictive covenants covering and running with the above property, specifying that this restriction during its lifetime shall be for the benefit of and a limitation upon all present and future owners of the real property described above, in favor of and enforceable by the City of Hialeah, Florida.

In connection therewith, the undersigned covenants, represents and agrees as follows:

1. The premises located at 675 East 29 Street and 2900 East 7 Avenue, Hialeah, Florida, were approved as follows: Approved only variance to allow both houses on substandard lots; front setback of 14 feet for front porch, side setback variance and distance separation between main house and carport on lots 16 and 17 and 5 feet for Tiki Hut. All legalizations, will be done within 6 months from the date of the approval of the Ordinance.
2. This covenant is intended and shall constitute a restrictive covenant concerning the use, enjoyment, and title to the above-described property and shall constitute a covenant running with the land and may be recorded in the Public Records of Miami-Dade County, Florida. This covenant shall remain in full force and effect and shall be binding upon the undersigned, its (their) heirs, successors and assigns until such time as the same is modified, amended or released and may only be modified, amended or released by a written instrument executed by the then owner having fee simple title to the property affected or to be affected by such modification, amendment, or release; provided, however, the same is also approved by the City Council and the Mayor of the City of Hialeah, or its successors, by resolution, upon advertised notice, or by ordinance if the covenant is adopted by ordinance or as otherwise provided in Hialeah Charter.
3. Where construction has occurred on said property described herein, pursuant to a permit issued by the City of Hialeah, and inspection made and approval of occupancy given by the City, the same shall create a conclusive presumption that the improvements thus constructed comply with the intent and spirit of the restrictions referenced herein and this Declaration of Restrictive Covenants shall not be construed as clouding title of any of said property on which such development has occurred.

DECLARATION OF RESTRICTIVE COVENANTS  
(Individual)

DR BK 26440 PG 1948  
LAST PAGE

IN WITNESS WHEREOF, (I) we have hereunto set out hands and seals at  
501 Palm Avenue this 3rd day of June, 2008  
(location) Hialech, Fla

Signed, sealed and delivered in the  
presence of:

Miriam Cappel  
Witness (2 Witnesses  
required)  
Typed/Printed Name \_\_\_\_\_

Roberto Rodriguez  
Owner  
Typed/Printed Name Roberto Rodriguez  
FDL# R362-720-30-207-0  
EXP: 6-7-12

Witness:

Typed/Printed Name \_\_\_\_\_

Miriam Cappel  
Witness (2 Witnesses  
required)  
Typed/Printed Name \_\_\_\_\_

X Pilar Rodriguez  
Co-Owner  
Typed/Printed Name Pilar Rodriguez  
Fla. ID # R362-660-37-872-0  
EXP: 08

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

I HEREBY CERTIFY that on this 3 day of June, 2008, before me, an officer duly  
authorized in the State of Florida and in County of Miami-Dade, to take acknowledgments, personally  
appeared Roberto Rodriguez and Pilar Rodriguez. To me known to be the  
person(s) described herein and who executed the foregoing instrument, and he/she/they acknowledged before  
me, under oath, that he/she/they executed same.

WITNESS my hand and official seal this 3 day of June, 2008

Patricia Chaiken  
Notary Public, State of Florida

PATRICIA CHAIKEN  
(Name of Notary Public; Print Stamp, or Type  
as Commissioned)  
Notary Discount Assoc. Co.  
1-800-1-NOTARY

- ☐ Personally known to me, or  
☒ Produced identification:

Fla. Driver License & Florida ID.  
Identification produced:

- ☐ Did take an oath  
☐ Did NOT take an oath